

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3262 of 2023

Arising Out of PS. Case No.-127 Year-2023 Thana- BIRAUL District- Darbhanga

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LAXMAN RAI @ KHURKHUR RAI SON OF SRI KANHAI JEE RAI @
KANHAIYA RAY R/O-BAIRAMPUR, P.S.-BIRAUL, DISTT.-
DARBHANGA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. SUDAMA DEVI @ SUJAN DEVI WIFE OF LATE LALAN SADA R/O-
BAIRAMPUR, P.S.-BIRAUL, DISTT.-DARBHANGA

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur Mrs. Vaishnavi Singh
For the Respondent/s	:	Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 02-11-2023 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the informant.

2. The instant appeal has been filed by the appellant
against the order dated 17.06.2023 passed by learned 10th
Additional Sessions Judge-cum-I/c Exclusive Special Judge
SC/ST (POA) Act, Darbhanga whereby the prayer for bail of
the appellant in connection with Biraul P.S. Case no. 127 of
2023 under Sections 436, 506 and 427 of the Indian Penal
Code and sections 3(i)(s) and 3(2) (v) of SC/ST Act was
rejected.



3. As per prosecution case, on the alleged date of occurrence while the informant along with her family members was sleeping, in the midnight she saw fire in her house, she woke up and all family members fled away from the house and in the light of fire she saw the appellant fleeing away. She raised hulla but could not apprehend him and all the house hold articles were burnt.

4. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case. The appellant was not apprehended at the place of occurrence. As a matter of fact no occurrence as alleged by the prosecution has taken place and only with a view to capture the ancestral land of the appellant the informant has filed the present false case. As per F.I.R., the informant saw the appellant was fleeing away but she has not stated that either the appellant was carrying any box or any article which can be used in setting the house in fire. No any person has sustained burn injury in the alleged occurrence so, this case does not come under the purview of Section 436 of IPC. He has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. The



appellant is languishing in judicial custody since 01.04.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant.

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 17.06.2023 is hereby set aside.

7. The appellant is directed to be enlarged on bail in connection with Biraul P.S. Case no. 127 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned 10th Additional Sessions Judge-cum-I/c Exclusive Special Judge SC/ST (POA) Act, Darbhanga

(Sunil Kumar Panwar, J)

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